



कर्मचारी राज्य बीमा निगम
(श्रम और रोजगार मंत्रालय, सरकार भारत)
Employees' state Insurance Corporation
(Ministry of Labour & Employment, Govt. of India)



क.रा.बी.नि.
E.S.I.C

मुख्यालय/Headquarters
पंचदीप भवन, सी.आई.जी. मार्ग, नई दिल्ली -
110002
Panchdeep Bhawan, C.I.G. Marg, New Delhi-110002
Website : www.esic.nic.in/www.esic.in

F.No. T-11/13/52/04/2022Rev.II

Date: 03.04.2023

To,

All RDs/Directors/JD In charge
Regional Office/SROs/DO

**Sub: Extension of the ESI Scheme to Construction Site Workers -
regarding.**

Sir,

This has reference to instruction no. P-12(11)-11/27/99-Ins.IV dated 14/06/1999 and P-12/11/11/60/2010-Rev.II dated 31/07/2015 relating to coverage of constructions workers. Further clarifications were issued vide instruction No. T.11/13/11/03/2015 Rev.II dated 26.09.2018.

In this context, it is stated that the orders of the Bombay High Court at Goa dated 14th March 2017 passed in W.P. No. 846 of 2016 and also the Circular dated 31st July, 2015 of the ESIC covering the construction site workers was stayed by the Hon'ble Supreme Court in SLP No.13351/2018 filed by the Builders Association of India, which was duly circulated vide Hqrs. instruction No. T.11/13/11/03/2015 Rev.II dated 26.09.2018.

This office is in receipt of a letter dated 18.02.2023 from a unit namely the Tata Projects Limited enclosing the list of field offices who issued notices, orders and recovery certificates allegedly in contravention to the Supreme Court's Order dated 06.07.2018 and clarification issued vide this office circular of even number dated 26.09.2018.

In this regard, it is informed that WP(C)No. 936/2022 before the Hon'ble Supreme Court of India challenging the notices being issued by various Regional Officers of the ESIC, was filed by Tata Projects Ltd. The Hon'ble Supreme Court vide order dated 27.01.2023 has ordered as under:

We clarify that the adjudication proceedings which are pending before the Employees' State Insurance Corporation authorities will be restricted to those employees' who are covered under the circular No. P-12(11)-11/27/99-Ins. IV dated 14.06.1999, i.e., workers who are employed on regular employment and not those employed periodically or on temporary basis'.


21/04/23
3/4/23

In view of the above, it is again reiterated to strictly comply with the orders dated 27.01.2023 passed by the Hon'ble Supreme Court while following the instruction issued under the Circular No. P-12(11)-11/27/99-Ins. IV dated 14.06.1999 and 26.09.2018 till the final outcome of the case pending in Hon'ble Supreme Court.

This issues with the approval of the Director General.

Encl: As above

Yours faithfully,


(Rakesh Chauhan)
Dy. Director (Rev.)

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S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Transfer Petition(s)(Civil) No(s). 576-598/2019

EMPLOYEES STATE INSURANCE CORPORATION AND ANR. ETC.Petitioner(s)

VERSUS

ITD CEMENTATION INDIA LTD. AND ANR. ETC.

Respondent(s)

(I.A. FOR STAY IN W.P.(C)NO.936/2022)

WITH

W.P.(C) No. 936/2022 (X)

(IA No. 165640/2022 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES, IA No. 159274/2022 - STAY APPLICATION)

Date : 27-01-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s)

Mr. Gaichangpou Gangmei, AOR

Mr. Sridhar Potaraju, Adv.

Mr. Arjun D. Singh, Adv.

Mr. Mahesh Srivastava, Adv.

Mr. Vaibhav Manu Srivastava, AOR

Mr. Abhishek Jaiswal, Adv.

For Respondent(s)

Mr. Rajiv Shukla, Adv.

Ms. Shivani Kapoor, Adv.

Mr. Prakash Ranjan Nayak, AOR

Ms. Geeta Luthra, Sr. Adv.

Mr. Mahesh Srivastava, Adv.

Mr. Vaibhav Manu Srivastava, AOR

Ms. Kavya Agarwal, Adv.

Mr. Abhishek Jaiswal, Adv.

Mr. Jose Abraham, AOR

Mr. M.P. Srivignesh, Adv.

Mr. Sebastian Joseph, Adv.

Ms. Anju Joseph, Adv.

Mrs. Anjali Mohan, Adv.
Mr. Rohan Sandal, Adv.

Mr. R. Sudhindu, Adv.
Ms. Prerna Amitabh, Adv.
Mr. Ashok Mathur, AOR

Mr. Sridhar Potaraju, AOR

Mr. Ajay Vikram Singh, AOR
Mrs. Priyanka Singh, Adv.
Mr. Shubham Singh, Adv.

Mr. Vikas Upadhyay, AOR
Ms. Ankita Kashyap, Adv.
Mr. Alok Tiwari, Adv.

Mr. Atul Kumar, AOR
Ms. Sweety Singh, Adv.
Ms. Archana Kumari, Adv.
Mr. Rahul Pandey, Adv.
Mr. Rajiv Ranjan, Adv.

Mr. Vishal Meghwal, Adv.
Ms. Padhmalkshmi Iyengar, Adv.
Mr. Milind Kumar, AOR

Mr. Ashwani Kumar, AOR
Ms. Iti Sharma, Adv.
Mr. Puneet Sharma, Adv.
Mr. Anshay Dhatwalia, Adv.

Mr. Puneet Taneja, AOR
Ms. Laxmi Kumari, Adv.
Mr. Manmohan Singh Narula, Adv.
Mr. Amit Kumar, Adv.

Mr. Gaichangpou Gangmei, AOR
Mr. Arjun D. Singh, Adv.

Mr. G.S. Gerwal, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Niharika Dwivedi, Adv.
Mr. Ravish Kumar Goyal, Adv.
Mr. Narendra Pal Sharma, Adv.
Mr. Anil Kumar, AOR

UPON hearing the counsel, the Court made the following
O R D E R

IA No. 159274/2022 IN W.P.(C)NO.936/2022

We clarify that the adjudication proceedings which are pending before the Employees' State Insurance Corporation authorities will be restricted to those employees who are covered under the Circular No. P-12(11)-11/27/99-Ins.IV dated 14.06.1999, i.e., workers who are employed on regular employment and not those employed periodically or on temporary basis.

Learned counsel for the petitioners has clarified that they are not deducting or collecting any contribution from the workers covered under the Circular/Notification No. P-12(II)-11/60/2010-Rev.II dated 31.07.2015.

SLP(C) No. 13351/2018 titled "Builders Association of India Vs. The Employees State Insurance Corporation and Others", will be listed along with the present matters.

(POOJA SHARMA)
COURT MASTER (SH)

(R.S. NARAYANAN)
COURT MASTER (NSH)



EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN', C.I.G ROAD,
NEW DELHI - 110 002.

Website - esic.nic.in (011) 23234092

ESIC

Chinta Se Mukti

No. P-12/11/11/60/2010-Rev.II

Dated: 31/07/2015

To

All Regional Director/Director I/c,/Joint Director I/c,
ESI Corporation,
Regional Office/Sub Regional Office

Sub: **Extension of the ESI Scheme to Construction Site Workers-reg.**

Sir,

In partial modification of Hqrs. Instruction No. 4/99 vide a circular No. P-12(11)-11/27/99-Ins.IV dated 14.06.1999, it is informed that it has been decided to extend the ESI Scheme to the construction site workers deployed in the implemented areas w.e.f 01.08.2015.

The Regional Directors/Director/Joint Director I/c are advised to undertake measures as under:-

- I. All the construction agencies which have already been covered u/s 1(5), their site workers also be covered and other construction agencies which may now come under coverage by adding construction site workers.
- II. The list of construction agencies/units covered under EPF may be obtained for survey.
- III. List of construction units paying cess towards Construction Workers' Welfare Board and the construction workers registered for benefit under Building and other Construction Workers Welfare Act, 1996 be obtained and surveyed and the benefits extended to such workers by board also asked for.
- IV. The Office of the State Labour Authorities may be approached for any supplementary information for survey and other benefits extended to such workers.
- V. Due publicity by release of Press Note/Public Notice for bringing awareness among the employers and employees of their legal obligation for coverage of construction site workers may be given apart from holding interaction with the representative body of the employers/employees.
- VI. During surveys, the details of workers with their Aadhar Card Number, RSBY Cards and BOCW Act Registration Number may also be captured to the extent available.
- VII. Pehchan Camps for capturing biometric and issue of Pehchan Cards/Aadhar Cards seeding may be arranged.

विभागाध्यक्ष, चिन्ता से मुक्ति, नई दिल्ली

Contd-----2.

As it is to be ensured that all the construction workers are extended coverage by 31.12.2015, you are advised to undertake the above task by launching special drive and submit progress on fortnightly basis in the enclosed proforma to ac-revenuehq@esic.in

This issues with the approval of the Director General.

Encl: As above

Yours faithfully,



(ARUN KUMAR)
ADDL. COMMISSIONER (Rev.)

Copy to:

1. PS to DG / FC / CVO / MC / AC (ICT) Hqrs. Office for kind information.
2. Director Finance / MSU
3. Website Contents Management, Hqrs. Office, with the request to upload this instruction.
4. Hindi Cell for translation.

ADDL. COMMISSIONER (Rev.)

NAME OF THE RO/SRO/DO

PROGRESS REPORT FOR THE FORTNIGHT _____ TO _____

I	No. of Construction Units already covered with ESIC	No. of Construction Site Workers additionally registered by the Employer/ subsequent Survey
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II	No. of Construction Units registered with EPFO/State Authority (Unique Employer excluding already covered under ESIC)	No. of Units surveyed and brought under coverage	No. of employees covered
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SIGN. OF THE AUTHORITY



EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN', C.I.G ROAD,
NEW DELHI - 110 002.

Website - esic.nic.in {{(011) 23234092

ESIC..... *Chinta Se Mukti*

No. P-12/11/11/60/2010-Rev.II

Dated: 31/07/2015

NOTICE TO EMPLOYERS

SUBJECT: Coverage of all the Construction Workers/Employees under Employees' State Insurance Act.

1. It has been decided to extend the benefits of the ESI Scheme to the construction site workers also, located in the implemented areas w.e.f. 1st August, 2015 vide instruction no. P-12/11/11/60/2010-Rev.II dated 31/07/2015 in partial modification of the earlier Instruction on the subject. For the coverage under ESI Act, the Construction Site Workers/Employees are also to be considered.
2. The ESI Scheme is already applicable to employees engaged in the offices of the Builders/Construction agencies. As per Hqrs. Office instruction No. 4/99 dated 14th June, 1999, the construction site workers were excluded from ESI coverage.
3. In view of the above, all such employers, employing Construction site workers, are advised to get these workers engaged on the construction sites in the implemented area registered online. They may send these workers and their families to the nearest ESIC Branch Office for their photography and capturing of biometrics so that Pehchan Cards could be issued to the registered workers/employees for availing benefits under the ESI Act.
4. Once covered under the Act, the construction site workers/employees will be entitled for benefits of complete medical care (from primary to tertiary medical care), as well as a range of cash benefits in times of exigencies of employment injury, death, disablement, maternity and unemployment.
5. With effect from 1.8.2015, all the provisions of the ESI Act, 1948 as amended and Rules and Regulations as framed thereunder, are applicable to all such employers employing construction site workers. The employers are legally liable for compliance as per the provisions of ESI Act, 1948.
6. The ESI Scheme is also extended to those Construction agencies, which were earlier not covered due to employees in their offices being less than coverage limit but now will be liable to be covered after addition of construction site workers.

sd/-

Addl Comm (Pay)

Offices of the Builders:-

1. Such construction agencies which are employing 20 or more persons in their offices and the offices are situated in implemented areas are coverable under the Scheme. However it may be ensured that the criterion of 20 or more persons is applicable to such employees only who are coverable under Section 2(9) of the ESI Act.
2. Such workers who are engaged by construction agencies and are working on the site of the project, should not be considered for the purpose of coverage of an establishment dealing with construction activities.
3. Such construction workers are to be taken into consideration for coverage under Section 2(9) as 'employee' who are engaged directly in a covered factory by the principal employer or through an immediate employer.
4. Only employees of the construction agencies who are posted in the office ~~XXXXXXXXXXXXXXXXXXXX~~ are to be taken into consideration for the coverage of the unit.
5. Some of the regular employees of the construction agencies mostly technical staff such as Engineers, Supervisors etc. who are regular employees of the construction agency but are normally sent to the work-site periodically, are to be taken into account for the purpose of coverage of the establishment under Section 1(5).
6. In respect of those employees who are though regular employees of the construction Agency but remain on tour at the Site(s) of the construction in non-implemented areas for a period of more than 7 months in a year, contribution may not be charged subject to the employer seeking exemption under Section 88 of the ESI Act in respect of those employees.

Yours faithfully,

Hindi Version will follow.

S.P.S. KHETAL

(S.P.S. KHETAL)

ADDL. COMMISSIONER (REVENUE)

Copy forwarded to Addl. Commissioner (P&A), Addl. Commissioner (Ben.), Director (HRD), Director (P&D), Director (MSU), Add. Com. (Vig.), Director (Finance) and all Branches of Hqrs. Office.

H. Hanai



EMPLOYEES STATE INSURANCE CORPORATION
PANCHDEEP BHAWAN, C.I.G. ROAD
NEW DELHI – 110 002
Website - esic.in Ph : (011) 23234092

ESIC...Chinta se Mukti

No.T.11/13/11/03/2015 Rev.II

Dated : 26.09.2018

To,

All RDs/Director/JD Incharge
Regional Office/SROs, /DO

Sub: Extension of the ESI Scheme to Construction Site Workers-reg.

Sir,

ESIC vide its Order dt.31.07.2015 had issued instructions regarding extension of ESI Scheme to construction site workers through which site workers of construction companies were also to be covered under ESI Scheme.

CREDAI and Several Builders filed Writ Petition No.846 of 2016 in the High Court of Bombay at Goa challenging ESIC order dated 31.07.2015. The Hon'ble High Court dismissed the writ petition of CREDAI and others vide its order dated 14.03.2017.

The Builder Association of India challenged the extension of ESI Scheme to construction site workers before Hon'ble Supreme Court of India vide SLP No.13351/2018.

Hon'ble Supreme Court of India vide its order dt.06.07.2018 has ordered that "an interim order would be justified in the facts of the present case. Accordingly, the order of the Bombay High Court at Goa dated 14th March 2017 passed in W.P. No. 846 of 2016 as also the Circular dated 31st July, 2015 of the ESIC shall remain stayed until further orders."

Consequently, references have been received on the following points:

1. During the stay period whether ESIC contribution may be collected or not in respect of construction site workers.
2. During this period of non payment of contribution if any claim for benefit comes in notice of ESIC for construction site workers whether the same is to be accepted or not.

-2-

In view of above, it is clarified that no ESI contribution may be collected from the construction site workers and from their employers during the period of stay order by Hon'ble Supreme Court and also no benefits could be extended to such workers during the corresponding benefit period.

This issues with the approval of the Director General.

Yours faithfully


(MOHIT RAJA)
DY. DIRECTOR(REV.)

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