



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 36732 OF 2025

Foundever CRM India Pvt. Ltd. and Anr.

... Petitioners

V/s.

Employees' State Insurance
Corporations and Ors.

... Respondents

Mr. Rashmin Khandekar with Ms. Shalaka Patil and Mr. Harsh Khanchandani
i/b. Trilegal for the Petitioners
Mr. Shailesh S. Pathak for Respondent - ESIC

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

DATE : 19TH NOVEMBER 2025

P.C. :

1. By this Writ Petition, the Petitioners are seeking a writ of mandamus declaring that the Show Cause Notices mentioned in Prayer Clause (A) of the Writ Petition issued by the Respondents ("Fresh Show Cause Notices") are contrary to the Judgment dated 19th September 2025, illegal and ultra vires of the Constitution of India. Further consequential reliefs have been sought with respect to the Fresh Show Cause Notices including restraining the Respondents from taking any steps and/or acting in furtherance of the Fresh Show Cause Notices dated 6th October 2025 and/or the impugned orders as listed in Annexure A.

2. The Petition has been circulated and has been placed today in view of the Fresh Show Cause Notices having relied on an Inspection Report dated 15th July 2024 and based on which there are observations in the Fresh Show Cause Notices as to non payment of contribution as seen from the Monthly Details of Contributions submitted by the Petitioners. The Petitioners had been called for a personal hearing on the Fresh Show Cause Notices on 28th October, 2025.

3. There is a preliminary objection raised by Mr. Pathak, learned Counsel for the Respondent – Employees’ State Insurance Corporation (‘ESIC’) as to the maintainability of the above Writ Petition before this Bench on the ground that this Writ Petition should have been filed before the learned Single Judge or before the Bench having the assignment of Labour and Service Matters.

4. Mr. Khandekar, learned Counsel appearing for the Petitioners submits that pursuant to enquiry made, the Registry informed the Advocate for the Petitioners that the assignment pertains to this Bench as it is a writ for enforcement of the orders of this Court. He has also placed reliance upon a decision of the Calcutta High Court in *Bibekananda Mondal v/s. State of West Bengal*¹. It has been held in the said decision that it is settled law that the second writ application is maintainable for implementation of an earlier

1 (2002) SCC OnLine Cal 571

order of the writ Court. The Court must issue proper directions for proper implementation of previous directions. Where there has been an order, the order must be complied with. An act done in wilful disobedience of a Court order is not only contempt, but, also, an illegal and invalid act. The language used in Article 226 of the Constitution of India is couched in comprehensive phraseology and the said article recognises a very wide power on the High Courts to remedy injustice wherever it is found.

5. Mr. Khandekar has referred to the judgment dated 19th September 2025 (authored) by one of us (Justice R.I. Chagla). By the said Judgment the impugned orders (set out in Annexure-A) which included the Inspection Report dated 15th July 2024 which is listed at V of Annexure-A were quashed and set aside. He has submitted that in view thereof, the Respondent – ESIC could not have placed reliance upon the Inspection Report dated 15th July, 2024 in the Fresh Show Cause Notices and proceeded against the Petitioners on the basis thereof. He has accordingly sought for a stay of the Fresh Show Cause Notices as they have been issued in wilful disobedience of the said judgment dated 19th September 2025.

6. Mr. Pathak has submitted that the judgment dated 19th September 2025 in Paragraph 80 has directed the Respondents to recall the impugned orders. He has submitted that there is no reference to the Inspection Report which have been issued by the Respondents. He has

submitted that pursuant to the said judgment, by a communication dated 3rd October 2025, the Respondents have recalled the impugned orders.

7. Mr. Pathak has sought to argue on the merits of the Fresh Show Cause Notices and/or the reason for issuing the same based on the Inspection Report. He has submitted that in view of this Writ Petition coming up before this Court, the personal hearing has been kept in abeyance which has been informed by Respondent – ESIC to the Petitioners in written note on 17th November 2025 during the course of the hearing.

8. Having considered the submissions, we are of the view that this Bench is having jurisdiction to entertain this Writ Petition. The Calcutta High Court in ***Bibekananda*** (supra) has held that the language used in Article 226 of the Constitution of India is couched in comprehensive phraseology and the said Article recognises a very wide power on the High Courts to remedy injustice wherever it is found.

9. We have perused the Fresh Show Cause Notices issued by the Respondent – ESIC to the Petitioners in October 2025. The Fresh Show Cause Notices have relied upon Inspection Report dated 15th July 2025 and which forms the basis of the Fresh Show Causes Notices. The Inspection Report dated 15th July 2025 was part of the impugned orders (set out in Annexure A) and has been specifically mentioned in Paragraph 78 of the judgment dated 19th September 2025. The Inspection Report has been

quashed and set aside by the said Judgment dated 19th September 2025, and hence could not be relied upon in the Fresh Show Cause Notices issued by the Respondents.

10. We find no merit in the submission of Mr. Pathak that in Paragraph 80 of the said judgment dated 19th September 2025, the directions to the Respondents to issue communication recalling the impugned orders is confined only to the impugned orders and not to the Inspection Report. This runs contrary to the said judgment which has declared the impugned orders (as set out in Annexure A) and which includes the Inspection Report dated 15th July 2024 (expressly mentioned in Item V of Annexure A) to be illegal, ultra vires the Constitution of India and the provisions of the ESI Act and directed the Respondents to issue communications recalling the impugned orders (as particularly set out in Annexure A).

11. The Respondents by issuing the Fresh Show Cause Notices on the basis of the Inspection Report dated 15th July 2024 is in our *prima- facie* view acting in wilful disobedience of the said judgment and amounts to an illegal and invalid act.

12. Accordingly, considering that the Respondent – ESIC has sought for time to file Affidavit-in-Reply to the Writ Petition, we grant ad-interim relief in terms of prayer clause (F) of the Writ Petition.

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13. The Respondents shall file their Affidavit-in-Reply to the Writ Petition within a period of three weeks from today.

14. The Petitioners are at liberty to file an Affidavit-in-Rejoinder thereto within a period of two weeks thereafter.

15. Place the Writ Petition for consideration on 7th January 2026.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)

JYOTI
PRAKASH
PAWAR

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by JYOTI
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Date: 2025.11.24
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