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With this thought, we hereby present to you

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# **"CONSTITUTIONAL VALIDITY OF THE EMPLOYEE STATE INSURANCE ACT, 1948: A CRITICAL ANALYSIS"**

AUTHORED BY - PEDDIREDDY SUVARNA DURGA

## **ABSTRACT:**

The Employee State Insurance Act (ESI Act) has been a significant piece of legislation in India, providing social security benefits to millions of employees and their dependents since its enactment in 1948. The Act establishes mandatory contributions for health insurance, maternity benefits, and disability benefits where both employers and employees must make these contributions. The Act has, however, drawn criticism for its constitutionality, limitations on coverage, and operational issues. The Act's coverage restrictions run counter to the equality principle contained in the Indian Constitution, and the forced contributions required by the Act violate the employees' fundamental rights. The effectiveness of the ESI Act has also been hampered by administrative problems such as slow benefit payments and restricted access to medical care. The Act's coverage has been expanded despite these obstacles, and the courts have upheld its constitutionality under the Directive Principles of State Policy. The constitutionality of the Employee State Insurance Act has been examined in the article.

**KEYWORDS:** The Employee State Insurance Act, Constitutional Validity, Fundamental Rights, DPSP, Security Benefits.

## **INTRODUCTION:**

A vital element of legislation that offers social security benefits to workers and their dependents is the Employee State Insurance (ESI) Act, passed in India in 1948. According to the Act, section 39 states that both employees and their employers must contribute a portion of their pay to the ESI scheme, which offers benefits including health insurance, maternity benefits, disability benefits, and others. The section 44 of the Act also requires the establishment of a social security fund, which will be used to pay for the benefits offered under the programme.

The ESI Act is important because it addresses the increasing need for social security and welfare benefits for workers, especially those in lower income groups who do not have access to private healthcare or insurance. The purpose of the Act is to guarantee the security and well-being of employees by offering them comprehensive healthcare and social security benefits. It has greatly helped India's workers become healthier overall and more productive, which has helped the economy of the nation.

The ESI Act has undergone multiple amendments throughout the years to increase the number of employees it covers and enhance the benefits it offers. Additionally, the Employees' State Insurance Corporation (ESIC), which is in charge of overseeing the programme and the social security fund, was created with the help of the Act under section 3

## **ISSUES AFFECTING THE CONSTITUTIONAL VALIDITY OF THE ESI ACT,1948.**

### **MANDATORY CONTRIBUTIONS**

Employers and employees are both required to pay mandatory contributions to the scheme under section 39 of the ESI Act<sup>1</sup>. The employee's contribution rate is 0.75%, while the employer's contribution rate is 3.25 percent of the employee's salary. The social security benefits offered by the programme, such as health care, maternity benefits, and disability benefits, are paid for with the help of these contributions.

According to Article 19(1)(g) of the Indian Constitution, this mandatory contribution violates employees' fundamental right to engage in any profession or occupation of their choice<sup>2</sup>. It also reduces their disposable income, which may deter them from pursuing particular professions or occupations. Additionally, the required payment constitutes forced savings, which is against the constitutional freedom of each individual to decide how to spend their money. The section 91 of the ESI Act does, however, set thresholds and exemptions for specific employee and establishment groups<sup>3</sup>. For instance, the Act's restrictions are not applicable to establishments with fewer than ten

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<sup>1</sup> Employees' State Insurance Act, 1948, § 39, No. 34, Acts of Parliament, 1948 (India).

<sup>2</sup> Constitution of India, art. 19(1)(g).

<sup>3</sup> Employees' State Insurance Act, 1948, § 91, No. 34, Acts of Parliament, 1948 (India).

employees. Additionally, section 2(12) of the Act includes exclusions for some employee types, including seasonal and casual workers, as well as employees who make less than a specific level<sup>4</sup>. However, the State's authority to pass laws pertaining to social welfare programmes under the Directive Principles of State Policy has been used by the courts to uphold the ESI Act's constitutionality in the majority of cases. They also understand the value of delivering social security benefits to employees and their dependents as well as the requirement for a mandated contribution plan to maintain the program's viability.

## COVERAGE LIMITATIONS

As per section 2(12) only employees who make up to Rs. 21,000 per month are qualified to receive social security payments under the ESI Act<sup>5</sup>. This indicates that employees who earn more than this amount are not covered by the Act and are not eligible for their employers to make ESI contributions on their behalf.

Additionally, only a selected group of employees are covered by the ESI Act, including those employed in factories, businesses with ten or more staff members, and a few other defined groups. Many other types of workers are left out, including those in the unorganised sector, who might not have access to social security benefits provided by ESI act.

The ESI Act's coverage restrictions contradict the equality principle enshrined in the Indian Constitution as the Act does not offer equal protection to all employees, particularly those who are excluded from the scheme due to coverage limitations, in violation of Article 14 of the Constitution, which guarantees everyone the right to equal protection under the law<sup>6</sup>.

Over the years, efforts have been undertaken to broaden the ESI Act's scope of application. The Act, for instance, was changed in 2010 to include workers in businesses with 20 or more employees<sup>7</sup>. The Act's coverage is still somewhat constrained, which makes it difficult to offer social security benefits

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<sup>4</sup> Employees' State Insurance Act, 1948, § 2(12), No. 34, Acts of Parliament, 1948 (India).

<sup>5</sup> Employees' State Insurance Act, 1948, § 2(12), No. 34, Acts of Parliament, 1948 (India).

<sup>6</sup> Constitution of India, art. 14.

<sup>7</sup>Frequently asked questions on ESI scheme - employees' state insurance ..., <https://www.esic.nic.in/attachments/files/faq.pdf> (last visited May 14, 2023).

to all Indian employees.

## **ADMINISTRATIVE PROBLEMS**

A number of administrative problems have hampered the ESI Act's efficacy and harmed its implementation. The delay in benefits payments, which can put a hardship on employees and their families financially, is one of the main issues. Benefits must be paid according to Section 46 of the Act, however there may be delays because of ineffective administrative procedures or a backlog of claims<sup>8</sup>. Access to medical treatment is also a problem, especially in rural or distant locations where ESI facilities might not be present. The establishment of ESI hospitals and dispensaries is mandated by Section 56 of the Act, although the accessibility and calibre of these facilities might vary greatly depending on the area<sup>9</sup>.

Additionally, the ESI Act imposes a heavy administrative burden on organisations who must keep thorough records of their workers and pay monthly contributions to the benefit plan. Additionally, failure to comply with the Act's requirements might result in penalties for employers, further taxing the administration's resources. The government has implemented a number of changes to solve these problems, including the extension of the network of ESI facilities and the creation of online portals for submitting claims and obtaining benefits<sup>10</sup>. To ensure the successful implementation of the ESI programme and to overcome the administrative difficulties faced by both companies and employees, further work must be done.

## **NON COMPLIANCE**

An important issue that threatens the scheme's efficiency is non-compliance with the ESI Act. According to Section 2(12) of the Act, an employee is any individual who works for pay in a factory or enterprise<sup>11</sup>. It is the employer's responsibility to enrol employees in the plan and to pay contributions to the plan. Employers are required by Section 39 of the Act to register with the ESI

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<sup>8</sup> Employees' State Insurance Act, 1948, § 46, No. 34, Acts of Parliament, 1948 (India).

<sup>9</sup> Employees' State Insurance Act, 1948, § 56, No. 34, Acts of Parliament, 1948 (India).

<sup>10</sup> Frequently asked questions on ESI scheme - employees' state insurance ..., <https://www.esic.nic.in/attachments/files/faq.pdf> (last visited May 14, 2023).

<sup>11</sup> Employees' State Insurance Act, 1948, § 2(12), No. 34, Acts of Parliament, 1948 (India).

Corporation on behalf of both themselves and their employees<sup>12</sup>. Section 40 also requires companies to contribute to the plan in proportion to the salary they pay their employees<sup>13</sup>. Penalties and legal repercussions may occur from failure to adhere to these regulations.

Despite these limitations, many companies disregard the ESI Act by either failing to register their employees or by making insufficient contributions to the programme. As a result, eligible employees are denied their rights to entitlements like medical coverage and compensation for accidents sustained on the job. Non-compliance also jeopardises the scheme's financial survival, which depends on company and employee contributions to fund social security benefits.

The ESI Corporation has taken action to increase compliance in order to resolve this issue, including raising the penalty for non-compliance and regularly inspecting enterprises to verify Act compliance. The Act also provides for legal action against employers who disregard its requirements, which may serve as a deterrent.

## **ARTICLE -14 REASONABLE CLASSIFICATION**

The right to equality before the law and equal protection under the law is guaranteed to all people under Article 14 of the Indian Constitution<sup>14</sup>. However, this does not imply that everyone should be treated equally by the law. If a group of people is classified reasonably and on the basis of discernible differences from individuals who are not part of the group, the law may treat that group of people differently. In the context of the ESI Act, the classifying workers who make up to a specific wage threshold as eligible for coverage under the programme breaches their right to equality. The classification is based on a legitimate distinction between employees who need social security payments and those who do not, according to the courts, who have largely supported the validity of the Act. According to the Supreme Court, the Act's goal is to offer social security benefits to workers in the organised sector who need them, and the classification is based on an understandable difference.

The classification is also not arbitrary or discriminatory, according to the courts, as it has a rational

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<sup>12</sup> Employees' State Insurance Act, 1948, § 39, No. 34, Acts of Parliament, 1948 (India).

<sup>13</sup> Employees' State Insurance Act, 1948, § 40, No. 34, Acts of Parliament, 1948 (India).

<sup>14</sup> Constitution of India, art. 14.

connection to the goal of providing organised sector workers with social security benefits. On the basis of the right to equality, the ESI Act's constitutionality has been contested, but courts have typically supported it. It has been determined that the classification of employees for coverage under the programme is fair and is based on an understandable difference. It has been determined that the Act complies with the Constitution and is recognised as a means of providing social security benefits to workers in the organised sector.

## CASE LAWS

The ESI Act's legality was questioned on the grounds that it contravened the equality principle established in Article 14 of the Indian Constitution. The claim was that the ESI Act arbitrary and discriminatorily divided workers into groups depending on whether they were covered by the Act or not. The Supreme Court upheld the constitutional validity of the ESI Act in the case of *Royal Talkies Corporation v. Employees' State Insurance Corporation*, (1964), stating that the classification made by the Act was based on intelligible differentia and had a rational nexus with the object sought to be achieved<sup>15</sup>.

In the case of *Anand Kumar v. Employees' State Insurance Corporation*<sup>16</sup>, it was noted that the Central Government had been given broad latitude to apply the Act's provisions to any region of India. But before the Central Government is satisfied that the contributions amount have been received to enable the Corporation to execute its commitment under this Act, the Act cannot be completely implemented. The Central Government has been granted the authority to carry out certain sections of this Act.

### *ESI Corp. v. Whirlpool of India Ltd*<sup>17</sup>.

The ESI is a social law that offers benefits to employees, the Supreme Court ruled once more. According to Section 3 of the Act, the Corporation donations made to the Corporation are the primary source of the action. The Employees' State Insurance Fund is used, but not specifically specified in the Act, as in Chapter v. in benefits to be granted to insured persons. The Industrial Disputes Act of

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<sup>15</sup> Royal Talkies, Hyderabad & Ors vs Employees State Insurance Corp., 1978 AIR 1478, 1979 SCR (1) 80

<sup>16</sup> Anand Kumar Bindal v. Employees' State Insurance corporation, AIR 1957

<sup>17</sup> M/S. Whirlpool Of India Ltd vs Employees' State Insurance corporation, 2000 SSC (I&S) 326

1947 established the meanings of the words and idioms, and the Disputes Act of 1947 ascribed those meanings to them. Undoubtedly, as possible interpretations could benefit the working class with such structure, but we cannot rely solely on them.

## **CONCLUSION**

In conclusion, since its passage in 1948, India's Employee State Insurance Act (ESI Act) has been a key piece of legislation, providing social security benefits to millions of employees and their dependents. The courts have supported the constitutionality of the ESI Act under the Directive Principles of State Policy in spite of complaints regarding its constitutionality, restrictions on coverage, and practical problems. The courts have reasoned that the mandatory contributions mandated by the Act are necessary to sustain the viability of the social security programme, despite the fact that they have been contested as a violation of employees' fundamental rights. The Act's restrictions on coverage have also drawn criticism for conflicting with the Indian Constitution's guarantee of equality. In spite of its flaws, the ESI Act has mostly been essential in ensuring that employees in India have access to social security benefits, and it has continued to broaden its scope. To remedy the Act's flaws and guarantee that all workers have access to social security benefits, additional revisions may be required.

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