

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

Ins.APP.No. 26 of 2011

EIC 2/2009 OF ESI COURT, PALAKKAD.
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APPELLANT/APPLICANT:

**THE TRICHUR DISTRICT CO-OPERATIVE
HOSPITAL LTD. NO.R.306, SHORNUR ROAD,
TRICHUR, REPRESENTED BY THE SECRETARY.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT/OPPOSITE PARTY:

**THE ESI CORPORATION,
REPRESENTED BY ITS REGIONAL DIRECTOR,
(KERALA), NORTH SWARAJ ROUND,
PANCHADEEP BHAVAN, THRISSUR-20.**

BY ADV. SRI.T.VAJAYAKUMAR, SC

**THIS INSURANCE APPEAL HAVING BEEN FINALLY HEARD
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

P.BSURESHKUMAR, J.

Insurance Appeal No.26 OF 2011

Dated this the 26th day of February, 2015

JUDGMENT

The decision of the Employees Insurance Court, Palakkad, in I.C.No.2/09 is under challenge in this appeal. The applicant in the proceedings is the appellant.

2. The applicant is a Co-operative Society registered under the Kerala Co-operative Societies Act, 1969. The applicant is running a hospital. On 6.9.2007, the Government of Kerala, in exercise of its powers under Section 1(5) of the Employees' State Insurance Act, 1948, hereinafter referred to as 'the Act' for short, issued a notification extending the provisions of the Act to Medical Institutions, including Corporate, joint sector, trust, charitable and private ownership hospitals, nursing homes, diagnostic centres, pathological laboratories, wherein 20 or more persons are employed or were employed on any day of the preceding twelve months.

3. The applicant is running a medical institution engaging more than 20 persons. Consequently, the Employees State Insurance Corporation, hereinafter referred to as 'the Corporation', for short, has

directed the applicant to comply with the provisions of the Act. Thereupon, as per order dated 25.7.2008, the Corporation has also determined the contributions payable by the applicant in respect of their employees, invoking the power under Section 45A of the Act. The application before the Insurance Court was filed then, challenging the order determining contributions payable by the applicant under the provisions of the Act. The Insurance Court, on an examination of the notification issued by the Government under Section 1(5) of the Act, found that the applicant is a Medical Institution brought into the purview of the Act and consequently dismissed the application. The applicant is aggrieved by the decision of the Insurance Court and hence this appeal.

4. Heard the learned counsel for the appellant and also the learned counsel appearing for the respondent Corporation.

5. Learned counsel for the appellant contended that going by the notification, a hospital run by a Co-operative Society would not come within the purview of the notification. Ext.A4 notification issued by the Government on 6th September 2007 reads as follows:

“S.R.O.No.749/2007--In exercise of the powers conferred by sub-section (5) of Section I of the Employees' State Insurance Act, 1948 (Central Act 34 of 1948), the Government of Kerala in consultation with the Employees' State Insurance Corporation and with the approval of the Central Government, and after having given six months notice of its intention so, to do, hereby extend the provisions of the said Act to the

classes of establishments, specified in Column (1) of the Schedule annexed hereto and situated in the areas specified in column (2) thereof with immediate effect.

<i>Description of establishments</i>	<i>Areas in which the establishments are situated</i>
<i>Medical Institutions (including Corporate, joint sector, trust, charitable and private ownership hospitals, nursing homes, diagnostic centres, pathological laboratories, wherein 20 or more persons are employed or were employed on any day of the preceding twelve months.</i>	<i>Areas where the Scheme has already been brought into force under sub-sections (3) and (5) of Section 1 of the Act.</i>

The medical institutions brought under the purview of the Act have been given an inclusive definition in the notification. It is true that the notification does not specifically refer to Medical Institutions run by Co-operative Societies, but it is evident from the notification that all medical institutions wherein twenty or more persons are employed or were employed on any day of the preceding twelve months, have been brought under the purview of the Act. The provision in the notification that medical institutions under corporate, joint sector, trust, charitable and private ownership would come under the purview of the Act is only in the nature of clarification to include them under the purview of the Act and not intended to exclude other institutions from the purview of the Act.

There is, therefore, no substance in this appeal and the same is accordingly dismissed.

P.B.SURESHKUMAR, JUDGE

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