

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

WP(C).No. 14744 of 2015 (P)

PETITIONER(S) :

MAR SLEEVA COLLEGE OF NURSING,
PALAI, CHERPUNKAL P.O., PIN-686 584
REPRESENTED BY ITS MANAGER.

BY ADVS.SRI.BABY ISSAC ILLICKAL
SRI.ISAAC KURUVILLA ILLIKAL.

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. SECRETARY,
LABOUR AND REHABILITATION (F) DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
3. DIRECTOR,
SUB REGIONAL OFFICE,
EMPLOYEES STATE INSURANCE CORPORATION,
MALU'S COMPLEX, ST.FRANCIS CHURCH ROAD, KALOOR
ERNAKULAM- 682 017.
4. ASSISTANT DIRECTOR,
SUB REGIONAL OFFICE,
EMPLOYEES STATE INSURANCE CORPORATION,
MALU'S COMPLEX, ST.FRANCIS CHURCH ROAD, KALOOR,
ERNAKULAM- 682 017.

BY SRI.P.SANKARANKUTTY NAIR, SC, ESI CORPN. &
BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ivs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1 - PHOTOCOPY OF G.O(P)NO.135/2007/LBR DT.08.10.2007.

EXT. P2 - PHOTOCOPY OF THE LETTER ISSUED BY THE 4TH RESPONDENT.

EXT. P3 - PHOTOCOPY OF THE REPLY DATED 21.1.2015.

EXT. P4 - PHOTOCOPY OF THE ORDER OF THE 4TH RESPONDENT DT.10.2.2015

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 14744 of 2015

Dated this the 5th day of June, 2015

J U D G M E N T

The petitioner, a nursing college, is challenging Ext.P4 issued by the 4th respondent on the ground of violation of the principles of natural justice and non application of mind.

2. The petitioner college is a minority educational institution established and administered by the Diocese of Palai. It is a self financing professional college. The 1st respondent, vide Ext.P1 notification, extended the purview of Employees State Insurance Act, 1948 (for short, the Act) to the education institutions in the State. The petitioner alleges that the aforesaid action of the 1st respondent has direct impact on the administration of the petitioner's educational institution. The petitioner further alleges that a part of the administration is taken away and vested with an outside authority, which is impermissible

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by virtue of Article 30(1) of the Constitution of India. The petitioner has filed a preliminary objection against the maintainability of Ext.P1. The petitioner contended that the petitioner is not liable to pay the amounts since it would not come under the Act. Without considering Ext.P3 objection, the 4th respondent issued Ext.P4 order under Section 45-A of the Act directing the petitioner to pay a sum of ₹4,39,080/-, which, according to the petitioner, is patently incorrect. It is with this background, the petitioner has come up before this Court.

4. On notice, respondents 3 and 4 entered appearance and filed a detailed counter affidavit, controverting the averments in the writ petition. They have made a frontal attack on the maintainability of the writ petition on account of the fact that Ext.P4 could be challenged before the Employees Insurance Court under Section 75 of the Act.

5. As an equal and efficacious remedy is provided as per the statute, this Court is of the view that this writ

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petition can be closed reserving the right of the petitioner to approach the proper forum.

Therefore, the writ petition is closed reserving the right of the petitioner to approach the Employees Insurance Court under Section 75 of the Act by way of a proper application within a period of one month from the date of receipt of a copy of this judgment. All further proceedings, pursuant to the impugned order, shall be kept in abeyance for the a period of one month.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-