

In the High Court of Judicature at Madras

Dated : 23.11.2015

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.36816 of 2015 and MP.Nos.1 and 2 of 2015

Seetha Kingston House Matriculation
Higher Secondary School, rep.by its
Correspondent, Chennai-10.

...Petitioner

Vs

- 1.The State of Tamil Nadu, rep.by its
Principal Secretary to Government,
Labour & Employment Department,
Fort.St.George, Chennai-9.
- 2.The Employees State Insurance
Corporation, rep.by its Additional
Commissioner & Regional Director of
ESIC, Tamil Nadu, No.143, Sterling
Road, Nungambakkam, Chennai-34.
- 3.The Employees State Insurance
Corporation, rep.by the Deputy
Director of ESIC, No.143, Sterling
Road, Nungambakkam, Chennai-34.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondents relating to the Notification extending Employees' State Insurance Scheme to Private Educational Institutions in all the implemented area under Employees State Insurance Act by G.O.M.No.237 Labour and Employment (K1) on 26th November 2010 published vide Tamilnadu Government Gazette in Part-II-Section 2 dated 29.12.2010 and Government vide Labour and Employment Department Notification No.II (2)LE/265/2008 published at page 206 of part -II Section 2 of the Tamilnadu Government Gazette dated 4th June 2008 and consequent impugned letter dated 2.9.2015 vide No.TN/INS/VII/51-00-108-91-000-1302 of the 3rd respondent informing the petitioner that the petitioner school was covered under the Employees' State Insurance Act and attendant notice under Section 45-A of the ESI Act vide No.TN/INS-VIII/51-00-108791-000-1302 dated 27.10.2015 and quash the same in so far as they relate to the petitioner institution.

For Petitioner : Mr.K.Shakespeare
For Respondent-1 : Mr.R.Rajeswaran, SGP
For Respondents 2 & 3 : Mr.S.P.Srinivasan

ORDER

Mr.R.Rajeswaran, learned Special Government Pleader accepts notice for the first respondent. Mr.S.P.Srinivasan, learned Standing Counsel accepts notice for respondents 2 and 3. Heard the learned counsel for the petitioner. By consent, the writ petition itself is taken up for final disposal.

2. It is agreed by the learned counsel on either side that the issue raised in this writ petition is covered by a decision of the First Bench of this Court (to which, I am a party), in W.A.No.918 of 2013 etc. batch dated 16.6.2015. The said common judgment reads as follows :

"Learned counsel for the parties state that as recorded in the order dated 5.5.2005, reported in 2005 (5) SCC 1 (State of U.P. Vs. Jai Bir Singh), the question of law has been referred to the Larger Bench of the Honourable Supreme Court i.e. whether the Employees' State Insurance Act, 1948 would apply to educational institutions. Interim orders have been operating in the present matters.

2. In view of the aforesaid position, the writ appeals and the writ petitions are disposed of by agreement that the interim orders would continue till the disposal of the matter by the Honourable Supreme Court and the parties would naturally remain bound by the legal position enunciated by the Honourable Supreme Court on such decision being rendered."

3. In view of the above, this writ petition is disposed of on the same terms as in the aforesaid judgment. No costs. Consequently, the above MPs are closed.

Sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

RS

To

1.The Principal Secretary to Government
of Tamil Nadu, Labour &
Employment Department,
Fort.St.George, Chennai-9.

2.The Additional Commissioner &
Regional Director, Employees State
Insurance Corporation, Tamil Nadu,
No.143, Sterling Road,
Nungambakkam, Chennai-34.

3.The Deputy Director,
Employees State Insurance Corporation,
No.143, Sterling Road,
Nungambakkam, Chennai-34.

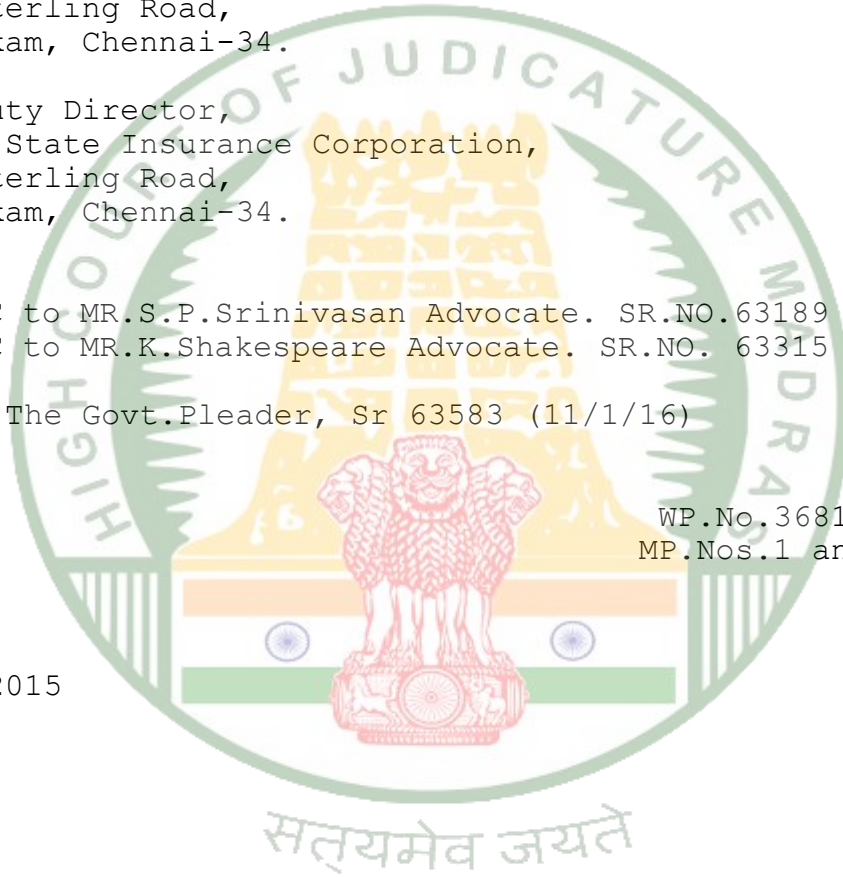
+1 CC to MR.S.P.Srinivasan Advocate. SR.NO.63189

+1 CC to MR.K.Shakespeare Advocate. SR.NO. 63315

+ 1 cc to The Govt.Pleader, Sr 63583 (11/1/16)

WP.No.36816 of 2015 &
MP.Nos.1 and 2 of 2015

CO-PUR
JD 09/12/2015



WEB COPY