

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.16698 OF 2016
AND WMP NO.14428 AND 14429 OF 2016

St. Francis Xavier's Matriculation School
Rep. By its Correspondent
No.153, T.T.K. Road, Alwarpet,
Chennai - 600 018.

Petitioner

Vs.

1.The Government of Tamil Nadu
Represented by its Principal Secretary
Labour and Employment Department
Fort St George,
Chennai - 600 009.

2.E.S.I. - Regional Corporation [Tamil Nadu]
Represented by its Regional Director
143, Sterling Road,
Chennai - 600 034.

3.E.S.I. - Regional Office
Represented by its Deputy Director
143, Sterling Road,
Chennai 600 034.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari calling for the records pertaining to the impugned G.O [Ms] No.237 Labour and Employment [K1] dated 26.11.2010 passed by the 1st respondent and the consequential proceedings of the 3rd respondent dated 29.03.2016 in no.TN/INS/VIII/51-00-1072-71-000-1302, C-18, Actual, and quash the same in respect of the petitioner school.

For Petitioner : Dr.FR.A.Xavier Arulraj
For Ms.A.Arul Mary

For Respondent-1 : Mr.R.Rajeswaran
Special Government Pleader

For Respondents 2&3: Ms.S.Jayakumari

O R D E R

Heard Dr.FR.A.Xavier Arulraj for Ms.A.Arul Mary, learned counsel for the petitioner; Mr.R.Rajeswaran, learned Special Government Pleader, accepting notice on behalf of the first respondent and Ms.S.Jayakumari, learned counsel accepting notice on behalf of the respondents 2 and 3 and with their consent, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner is a Minority Educational Institution and the challenge in this writ petition is to the Government order passed by the first respondent in G.O.[Ms] No.237, Labour and Employment Department, dated 26.11.2010 and the consequential order of the third respondent dated 29.03.2016.

3.The matter relates to the extension of Employees State Insurance Scheme to the private educational institutions. In fact, in a batch of cases, various other Institutions have also challenged the very same Government Order and the consequential proceedings of the ESI Corporation. The said writ petitions and writ appeals were clubbed together and posted before the Hon'ble First Bench of this Court in WA.No.918/2013 etc., batch [TAMIL NADU NURSERY, PRIMARY, MATRICULATION AND HIGHER SECONDARY SCHOOL MANAGEMENT ASSOCIATION AND OTHERS Vs. THE GOVERNMENT OF TAMIL NADU AND OTHERS] and the Hon'ble First Bench of this Court by a common judgment and order dated 16.06.2015, disposed of the writ appeals and writ petitions on the following terms:-

"Learned counsel for the parties state that as recorded in the order dated 05.05.2005, 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. No costs. Consequently, connected miscellaneous petitions are closed."

4.Since the issue involved in this writ petition is also identical to that of the other cases, this Court proposes to dispose of this writ petition also on the same terms.

5.Accordingly, the writ petition is disposed of by granting an order of interim stay of the impugned proceedings insofar as the petitioner is concerned and the said order of stay will continue till the disposal of the matter before the Honourable Supreme Court and the petitioner would be bound by the legal position enunciated by the Hon'ble Apex Court on such decision being rendered. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

TK

To

- 1.The Principal Secretary
Government of Tamilnadu
Labour & Employment Department
Fort St George,
Chennai - 600 009.
- 2.The Regional Director
ESI Regional Corporation [Tamil Nadu]
143, Sterling Road,
Chennai - 600 034.
- 3.The Deputy Director
ESI Regional Office
143 Sterling Road,
Chennai - 600 034.

- 1 cc to M/s.A. Arul mary, Advocate, Sr. 27666
1 cc to Government Pleader, Sr. 27997
1 cc to Mr.Jayakumari, Advocate, Sr. 27341

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SV (CO)
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