

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.18748 & 18749 of 2016  
and M.P.Nos.16365 to 16368 of 2016

Muthayammal Engineering College,  
represented by its Principal  
Kakkaveri, Rasipuram Post,  
Namakkal District - 637 408. ...Petitioner in WP No.18748/2016

Muthayammal Engineering College,  
represented by its Principal  
Kakkaveri, Rasipuram Post,  
Namakkal District - 637 408. ....Petitioner in WP No.18749/2016

Vs.

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

2.Employees' State Insurance Corporation,  
Rep.by its Deputy Director (Revenue)  
Sub Regional Office (Salem)  
39/57, Theerthamalai Vaniga Valagam,  
Three Road, Salem 0 636 009.

3.The Social Security Officer,  
Salem Division-II, ESI Corporation,  
1/241, Kumaran Tower, Alagapuram Post,  
Salem - 636 004.

... Respondents in both WPs

COMMON PRAYER : Writ petitions filed under Article 226 of the Constitution of India for issue of writ of certiorari calling for the records of the respondents relating to the order of the 1<sup>st</sup> respondent in G.O.Ms.No.237 Labour and Employment (K1) dated 26.11.2010 and published at Page No.879 of Part II Section 2 of the Tamil Nadu Government Gazette No.51 dated 29.12.2010 and the orders of the 3<sup>rd</sup> respondent in No.63/IO\_DIV.II/Survey/2015 dated 15.06.2015 and 05.08.2015 and No.63/IO\_DIV.II/Survey/2015 dated 15.06.2015 and 05.08.2015 and No.63/IO\_DIV.II/Survey/2015/MEC dated 11.09.2015 and quash the same.

For Petitioners : Mr.Kandhan Duraisami  
in both WPs

For Respondents : Ms.T.Girija,  
in both WPs Govt. Advocate for R1

Mr.S.P.Srinivasan  
for R2 & R3.

#### COMMON ORDER

By consent, both these Writ Petitions are taken up for final disposal at the admission stage itself.

2. Heard Mr.Kandhan Duraisami, learned counsel appearing for the petitioner, Ms.T.Girija, learned Government Advocate appearing for the first respondent and Mr.S.P.Srinivasan, learned counsel appearing for R2 and R3.

3. The petitioner challenges the Government Order passed by the first respondent bringing the educational institutions under the purview of Employees' State Insurance Act, 1948.

4. The issue involved in these writ petitions are squarely covered by the decision of the First Bench of this Court in W.A.No.1233 of 2011 etc. batch, dated 09.06.2015. The order passed by the First Bench reads as follows -

"Learned counsel for the parties state that as recorded in the order dated 05.05.2005 reported in 2005 (5) SCC 1 (State of I.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 matter.

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."

5. Following the above order, these writ petitions are disposed of holding that there will be an interim order restraining the respondents from enforcing the demand till the disposal of the matter before the Honourable Supreme Court and the petitioner would be bound by the legal position enunciated by the Honourable Supreme Court on such decision being rendered. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

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

2.The Deputy Director (Revenue)  
Employees' State Insurance Corporation,  
Sub Regional Office (Salem)  
39/57, Theerthamalai Vaniga Valagam,  
Three Road, Salem 0 636 009.

3.The Social Security Officer,  
Salem Division-II,  
ESI Corporation,  
1/241, Kumaran Tower,  
Alagapuram Post,  
Salem - 636 004.

2 ccs to M/s.Muthumani Doraisamy, Advocate, sr.29613, 29614  
2 cc to Mr.S.P.Srinivasan, Advocate, sr.29738, 29739  
1 cc to The Government Pleader, sr.29830

W.P. No.18748 & 18749 of 2016

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