

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.20361 of 2016

and M.P.Nos.17482 & 17483 of 2016

Muthayammal Polytechnic
Kakkaveri, Rasipuram PO & Taluk,
Namakkal District - 637 408
represented by its Chairman,
R.Ramasamy, S/o,Ramasamy ... Petitioner

Vs.

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

2.The E.S.I - Regional Office,
Employees State Insurance Corporation
Rep.by its Regional Director
143, Sterling Road,
Chennai - 600 034.

3. The E.S.I. - Sub Regional Office,
Employees State Insurance Corporation
Rep.by its Assistant Director,
No.39/57, Theerthamalai Vaniga Valagam,
Three Road, Salem - 636 009. ... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issue of writ of certiorari calling for the records pertaining to the impugned G.O.Ms.No.237 Labour and Employment (K1) Department dated 26.11.2010 passed by 1st respondent and the consequential proceedings of the 3rd respondent in No.63000957910001304/MEC/SRO/SLM/C-18(Adhoc) dated 05.04.2016 and to quash the same.

For Petitioner : Mr.G.Sankaran

For Respondents: Mr.Rm.Muthukumar,
Govt. Advocate for R1.
Mr.S.P.Srinivas for R2 & R3.

O R D E R

By consent, both this Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.G.Sankaran, learned counsel appearing for the petitioner, Mr.Rm.Muthukumar, learned Government Advocate appearing for the first respondent and Mr.S.P.Srinivas, 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 this writ petition is 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, this writ petition is 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.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rgr

To

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

2.The Regional Director
The E.S.I - Regional Office,
Employees State Insurance Corporation
143, Sterling Road,
Chennai - 600 034.

3.The Assistant Director
The E.S.I. - Sub Regional Office,
Employees State Insurance Corporation
No.39/57, Theerthamalai Vaniga Valagam,
Three Road, Salem - 636 009.

+1 cc to Mr.S.P.Srinivasan Advocate sr.32946

+1 cc to M/s.G.Sankaran Advocate sr.33504

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