

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32088 of 2015 and  
MP.Nos.1 & 2 of 2015

Nehru Matriculation School  
Rep. by its Correspondent  
Mr.P.Karuppiah

.. Petitioner

Vs.

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

2.Employees State Insurance Corporation  
Represented by its Regional Director,  
'Panchdeep', Sterling Road,  
Chennai - 600 034.

3.The Deputy Director (INS-II)  
Employees State Insurance Corporation  
II West Street, K.K.Nagar  
Madurai 20.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records in respect of the Impugned Notification issued by the First Respondent in G.O.(Ms) No.237 Labour and Employment (K1) Department dated 26.11.2010, as published in the Tamil Nadu Government Gazette No.51, dated 29.12.2010 in Part-II Section-II and consequential impugned order passed by the third respondent under section 45-A of ESI Act, 1948 vide No.57-00-072873-000-1302/527201510-52/31/15 dated 27.05.2015 and No. 57000728730001302/ INS.II/SRO/MDU/188/15 dated Nil-08-2015 and quash the same.

|                       |    |                                           |
|-----------------------|----|-------------------------------------------|
| For Petitioner        | .. | Mr.M.Venkadeshnan                         |
| For 1st Respondent    | .. | Mr.R.Rajeswaran<br>Spl.Government Pleader |
| For Respondents 2 & 3 | .. | Mrs.S.Jayakumari<br>Standing Counsel      |

## O R D E R

Heard Mr.M.Venkadeshnan, learned counsel for the petitioner; Mr.R.Rajeswaran, learned Special Government Pleader accepting notice for the 1st respondent and Mrs.S.Jayakumari, learned Standing Counsel accepting notice on behalf of the respondents 2 and 3.

2.The petitioner is an Educational Institution, started in the year 1997. The challenge in this writ petition is to a Government Order in G.O.(Ms)No.237, Labour and Employment (K1) Department, dated 26.11.2010. An identical issue was considered by the First Bench of this Court, in which, I was a party in a batch of cases in W.A.Nos.918 of 2013 and etc. batch dated 16.06.2015 (Tamil Nadu Nursery Primary Matriculation and Higher Secondary Schools, Managements Association and others V. Government of Tamil Nadu) and the Division Bench, after taking into consideration that the issue is now pending before the Hon'ble Supreme Court, disposed of the Appeals/Writ Petitions by passing the following order:

"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.Thus, by following the above order passed by the Division Bench, this Writ Petition is disposed of, with a direction that there will be an order of interim stay in favour of the petitioner and the same will continue till the disposal of the matter by the Hon'ble Supreme Court and the petitioner would be bound by the legal position enunciated by the Hon'ble Supreme Court on such decision being rendered. No costs. Consequently, connected Miscellaneous Petitions are closed.

sd/-  
Assistant Registrar (Cs-III)

/TRUE COPY/

Sub-Assistant Registrar

rpa

To

- 1.The Principal Secretary to  
Government, State of Tamil Nadu,  
Labour and Employment Department,  
Fort St. George, Chennai 600 009.
- 2.The Regional Director,  
Employees State Insurance Corporation  
'Panchdeep', Sterling Road,  
Chennai - 600 034.
- 3.The Deputy Director (INS-II)  
Employees State Insurance Corporation  
II West Street, K.K.Nagar, Madurai 20.

+1 CC to Mrs.S.Jayakumari Advocate. SR.NO. 5591  
+1 CC to MR.M.Venkadeshnan Advocate. SR.NO. 5328  
+1 CC to Govt.Pleader. SR.NO. 5481

W.P.No.32088 of 2015

CO-KJI  
JD 12/02/2016