

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.22026 of 2016

and W.M.P.Nos.18819 and 18820 of 2016

Marudupandiyar College,  
rep. by its Secretary B.Bharathidasan,  
257, Trichy Main Road,  
Vallam Post,  
Thanjavur - 613 403. ... Petitioner

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 Director,  
Sub Regional Office (Salem)  
39/57, Three Road,  
Salem - 636 009.
- 3.Employees' State Insurance Corporation,  
rep. by its Asst. Director (Revenue),  
Sub Regional Office,  
Labour and Employment Ministry,  
Government of India,  
39/57, Theertha Malai Vaniga Valagam,  
39/57, 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 of the 1<sup>st</sup> respondent in G.O.Ms.No.237 Labour and Employment (K1) dated 26.11.2010 and published Page No.879 of Part II Section 2 of the Tamil Nadu Government Gazette No.51 dated 29.12.2010, the consequential order of the 2<sup>nd</sup> respondent in C11 Code No.63000117690001303 dated 18.02.2011 and the consequential order of the 3<sup>rd</sup> respondent in No.630001176900303/INS.SRO/SLM/14 dated 05.05.2016 and 31.05.2016 and quash the same.

For Petitioner : Mr.S.P.Sudalaiyandi  
For Respondents: Ms.T.Girija,  
Govt. Advocate for R1  
Mr.S.P.Srinivasan  
for R2 & R3.

ORDER

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

2.Heard Mr.S.P.Sudalaiyandi, 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 respondents 2 and 3

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, the 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 (CS-II)

True Copy

Sub-Assistant Registrar

cse  
To

1. The Principal Secretary,  
Government of Tamil Nadu  
Labour and Employment Department,  
Fort St. George, Chennai - 600 009.
2. The Director  
Employees' State Insurance Corporation,  
Sub Regional Office (Salem)  
39/57, Three Road, Salem - 636 009.
3. The Assistant Director (Revenue)  
Employees' State Insurance Corporation,  
Sub Regional Office, Labour and Employment Ministry,  
Government of India,  
39/57, Theertha Malai Vaniga Valagam,  
39/57, Three Road, Salem - 636 009.

+1 cc to Mr.S.P.Sudalaiyandi Advocate sr.36370/16

+1 cc to Mr.S.P.Srinivasan Advocate sr.36548/16

W.P.No.22026 of 2016  
and W.M.P.Nos.18819 and 18820 of 2016

vgl(co)  
aa01/07/2016

WEB COPY