

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2016

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 26360 of 2016
&
W.M.P. No. 22600 of 2016

Kothari Vidya Mandir Middle School,
rep. by its Managing Trustee,
Kamala Kothari,
JK Towers, 100 Feet Road,
Puducherry - 605 013.

... Petitioner

Vs.

1. The Government of Puducherry,
rep. by Additional Secretary
to Government (Labour),
Labour Department,
General Secretariat,
Puducherry.
2. The Employees' State Insurance Corporation,
Regional Office (Puducherry),
rep. by its Regional Director,
No.178, Ansari Duraisamy Nagar,
100 Feet Road,
Puducherry - 605 004.
3. Deputy Director,
The Employees' State Insurance
Corporation,
Regional Office (Puducherry),
rep. by its Regional Director,
No.178, Ansari Duraisamy Nagar,
100 Feet Road,
Puducherry - 605 004.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India
praying for issue of a Writ of Certiorari to call for the
records relating to the impugned order No.55-00-045670-000-
1301/45-A/5209 dated 31.5.2016 passed by the 3rd respondent and
quash the same.

For Petitioner : Mr.R. Thiagarajan

For Respondents : Mr.A. Tamilvanan
Government Advocate (Pondicherry)
for R1
Mr.P. Chandrasekaran
for R2 & R3

O R D E R

This writ petition is filed for issue of a Writ of Certiorari to call for the records relating to the impugned order No.55-00-045670-000-130/45-A/5209 dated 31.5.2016 passed by the 3rd respondent and quash the same.

2. The petitioner school is covered under the ESI Act with code No. 55-00-045670-000-1301. Alleging that the petitioner failed to pay the contribution, the 3rd respondent issued a notice on 29.09.2015 threatening to initiate criminal prosecution for non-compliance of the provisions of the ESI Act. A reply was given by the petitioner on 14.12.2015 to the 3rd respondent. Thereafter, the 3rd respondent passed the impugned order on 31.05.2016 directing the petitioner to pay a sum of Rs.3,18,303/-, being statutorily due as arrears of contribution for the period from January, 2014 to August, 2015. Challenging the same, the present writ petition has been filed.

3. Heard the learned counsel on either side.

4. Mr.R. Thiagarajan, learned counsel for the petitioner would submit that the question of applicability of Employees' State Insurance Act, 1948 to educational institutions is pending before the larger Bench of the Honourable Apex Court. A reference order dated 05.05.2005 of the Honourable Supreme Court in State of Uttar Pradesh V. Jai Bir Singh has been reported in 2005 5 SCC Page.1 and in the said proceedings, interim orders have been granted.

5. In view of the above fact, the writ petition is disposed of and there shall be an order of interim stay till the disposal of the matter pending before the Honourable Supreme Court. No costs. Connected W.M.P. is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Additional Secretary
to Government (Labour),
Labour Department,
General Secretariat,
Puducherry.
2. The Regional Director,
Employees' State Insurance
Corporation,
Regional Office (Puducherry),
No.178, Ansari Duraisamy Nagar,
100 Feet Road,
Puducherry - 605 004.
3. The Deputy Director,
The Employees' State Insurance
Corporation,
Regional Office (Puducherry),
No.178, Ansari Duraisamy Nagar,
100 Feet Road,
Puducherry - 605 004.

+1cc to Mr.R. Thiagarajan, Advocate, S.R.No.43362

W.P. No. 26360 of 2016

VD(CO)
CA(31/08/2016)

सत्यमेव जयते

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