

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.Nos.27042 and 27043 of 2016
and
WMP.Nos.23222 to 23225 of 2016

Muthayammal Polytechnic Institution
Rep by its Secretary R.Muthuvel
Kakkaveri Rasipuram Post & Taluk
Namakkal District-637 408Petitioner in WP.27042/16

Muthayammal College of Arts & Science
Rep by its Secretary R.Muthuvel
Kakkaveri Rasipuram Post & Taluk
Namakkal District-637 408Petitioner in WP.27043/16

Vs

1. The State of Tamil Nadu
Rep by its Principal Secretary to Government
Department of Labour and Employment
Fort St. George Chennai-600 009
2. The Employees State Insurance Corporation
Rep. by its Regional Director
"Panchdeep" Sterling Road Nungambakkam
Chennai-600 034
3. The Assistant Director
Employees State Insurance Corporation
Sub Regional Office(Salem)
39/57 Theertahamalai Vaniga Valagam
Three Roads Salem-636 009 ... Respondents in both WPs

Prayer : Petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records relating to the Government Order in G.O.Ms.No. 237 Labour and Employment (K1) Department dated 26.11.2010 issued by the 1st respondent as published in the Tamil Nadu Government Gazette (Part-II-Section-2) dated 29.12.2010 as well as the consequential order dated 12.04.2016 passed by the 3rd respondent in No. 63000957930001304/MEC/SRO/SLM/ and quash the same(In W.P.27042 of 2016) and No.63000957920001303/MEC/SRO/SLM/

and the notice dated 13.07.2016 instead is the 3rd Respondent in No.63000957920001303/MEC/SRO/SLM/PH and quash the same (In W.P.27043 of 2016).

For Petitioners : Mr.S.Saravanan

For 1st Respondent : Mr.V.Jayaprakash Narayanan
Special Government Pleader

For Respondents 2 & 3 : Mr.G.Bharadwaj

O R D E R

Heard Mr.S.Saravanan, learned counsel for the petitioners; Mr.V.Jayaprakash Narayanan, learned Special Government Pleader accepting notice for the 1st respondent and MrG.Bharadwaj, learned Standing Counsel accepting notice on behalf of the respondents 2 and 3.

2.The petitioners are Educational Institutions, started in the year 1995. The challenge in these writ petitions 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 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."

3.Thus, by following the above order passed by the Division Bench, these Writ Petitions are disposed of, with a direction that there will be an order of interim stay in favour of the petitioners and the same will continue till the disposal of the matter by the Hon'ble Supreme Court and the petitioners 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 VII)

//True Copy//

Sub Assistant Registrar

rg

To

1. The Principal Secretary to Government
Department of Labour and Employment
Fort St. George Chennai-600 009
2. The Regional Director
Employees State Insurance Corporation
"Panchdeep" Sterling Road Nungambakkam
Chennai-600 034
3. The Assistant Director
Employees State Insurance Corporation
Sub Regional Office(Salem)
39/57 Theertahamalai Vaniga Valagam
Three Roads Salem-636 009

+2cc's to Mr.S.Saravanan, Advocate, S.R.Nos.44248 & 44247
+1cc to Mr.G.Bharadwaj, Advocate, S.R.No.44066
+1cc to the Government Pleader, S.R.No.43905

W.P.Nos.27042 and 27043 of 2016

VD(CO)
CA(26/08/2016)