

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.2840 of 2016 and
WMP.Nos.2385 & 2386 of 2016

Presentation Nursery School

Rep. by its Correspondent

No.4, Mclean Street,

George Town, Chennai - 600 001.

.. Petitioner

V.

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

2.E.S.I. - Regional Corporation (Tamil Nadu)
Represented by its Regional Director,
143, Sterling Road, Chennai - 600 034.

3.E.S.I. Regional Office,
Represented by its Deputy Director,
143, Sterling Road, Chennai - 600 034.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a 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 the 1st respondent and the consequential proceedings of the 3rd respondent dated 29.12.2015 in No.TN/INS/VIII/51-00-106-838-000-1301/1212015247, and quash the same in respect of the petitioner school.

For Petitioner .. Dr.Fr.A.Xavier Arulraj

For 1st Respondent .. Mr.R.Vijayakumar
Additional Government Pleader

For Respondents 2 & 3.. Mr.G.Bharadwaj

ORDER

Heard the learned counsel for the petitioner; Mr.R.Vijayakumar, learned Additional Government Pleader accepting notice for the 1st respondent and Mr.G.Bharatwaj, learned Standing Counsel accepting notice on behalf of the respondents 2 and 3.

2.The petitioner is an Educational Institution and they are running a Nursery School and it has been established and administered by the Congregation of the Sisters of the Presentation of the Blessed Virgin Mary, which is a Society registered under the provisions of the Societies Registration Act and the Educational Institution is a Minority Educational Institution governed under Article 30(1) of the Constitution of India.

3.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(V)

//True Copy//

Sub Assistant Registrar

Sgl

To

- 1.The Principal Secretary to Government
Labour and Employment Department,
Government of Tamil Nadu,
Fort St. George, Chennai 600 009.
- 2.The Regional Director, (Tamil Nadu)
E.S.I. - Regional Corporation
143, Sterling Road, Chennai - 600 034.
- 3.The Deputy Director, E.S.I. Regional Office,
143, Sterling Road, Chennai - 600 034.

+ 2 ccs to Mr.Dr.FR.A. Xavier Arulraj, Advocate SR.4956, 5502
+ 1 cc to Mr.G. Bharadiraj, Advocate SR.5087

GJ(CO)
Eu 11.02.16

W.P.No.2840 of 2016

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