

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2016

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.Nos.31891 to 31895 of 2016
and WMP Nos.27653 to 27662 of 2016

Holy Family Convent Matriculation
Higher Secondary School,
Represented by the Correspondent
S.Ukkadam,
Coimbatore - 641 001

... Petitioner in WP
No.31891/2016

Christhu Jyothi Matriculation Higher
Secondary School,
Represented by the Correspondent,
No.13, Bhavani Main Road,
Peria Agraharam,
Erode - 638 005.

.. Petitioner in WP
No.31892/2016

Annai Mary Nursery and Primary School
Represented by its Correspondent
Karavaikkal,
Erode - 638 001.

.. Petitioner in WP
No.31893/2016

St. Joseph's Matriculation Higher
Secondary School,
Represented by its Correspondent
Opposite to Park Road,
Kangayem Road,
Tiruppur - 641 604.

सत्यमेव जयते

.. Petitioner in WP No.31894/2016

Mary Rani Nursery and Primary School
Represented by its Correspondent
Gandhipuram,
Coimbatore - 641 012.

.. Petitioner in WP
No.31895/2016

Vs

- 1.The Government of Tamilnadu,
represented by its Principal Secretary
Labour & Employment Department
Fort St George, Chennai 600009.
- 2.ESI - Regional Corporation [Tamil Nadu]
Represented by its Regional Director,
143, Sterling Road,
Chennai 600 034.
- 3.ESI - Sub Regional Office [Tamil Nadu]
Represented by its Asst. Director (IPN) for Director
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045. .. Respondents 1 to 3 in
all WPs
- 4.ESI - Sub Regional Officer [Tamil Nadu]
Represented by its Dy.Director (INS-IV)
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045. .. 4th Respondent in WP
Nos.31891,31892&31894/2016
- 4.Assistant Director,
ESI - Sub Regional Officer [Tamil Nadu]
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045. .. 4th Respondent in WP
Nos.31893/2016
- 5.Manager
Branch office, ESI Corporation,
Kattoor, Kaaleswaram Nagar,
Kattoor,
Coimbatore - 641 009. .. 5th Respondent in WP
No.31891/2016
- 5.Manager
Branch office, ESI Corporation,
K.G.Palayam,
518, Cavery Road,
Erode - 638 003 .. 5th Respondent in WP
No.31892/2016

5.Manager

Branch office, ESI Corporation,
KNP Puram, 39 Kaveri Street,
Meghala House, Odakakadu,
Tirupur - 641 602.

.. 5th Respondent in WP
No.31894/2016

Prayer in WP.31891/2016 : Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari calling for the records pertaining to the impugned G.O [Ms] No.237 Labour and Employment [K1] dated 26.11.2010 passed by the 1st respondent and the proceedings dated 01.06.2011 in No.56-00-110925-000-1302/Ins.II on the file of the 3rd respondent and the consequential proceedings dated 12.08.2016 in No.56-00-110925-000-1302/Ins.IV on the file of the 4th respondent and quash the same in respect of the petitioners school.

WP.No.31892/2016:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Calling for the records pertaining to the impugned G.O. (Ms).NO. 237 Labour and Employment (K1) dated 26.11.2010 issued by 1st respondent and the proceedings dated 17.02.2011 in No. 56-00-110826-000-1302/Ins.3 on the file of the 4th respondent and the consequential proceedings dated 11.08.2016 in No. 56-00-110826-000-1302/Ins IV on the file of the 3rd respondent and quash the same in respect of the petitioner school.

WP.No.31893/2016:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Calling for the records pertaining to the impugned G.O. (Ms).NO. 237 Labour and Employment (K1) dated 26.11.2010 issued by 1st respondent and the proceedings dated 17.02.2011 in No. 56-00-110827-000-1301/Ins.3 issued by the 4th respondent and the consequential proceedings dated 11.08.2016 in No. 56001108270001301/Ins IV on the file of the 3rd respondent and quash the same in respect of the petitioner school

WP.No.31894/2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Calling for the records pertaining to the impugned G.O. (Ms).NO. 237 Labour and Employment (K1) dated 26.11.2010 issued by 1st respondent and the proceedings dated 23.03.2011 in No. 56-56-110845-001-1302/Ins.IV on the file of the 3rd respondent and the consequential proceedings dated 12.08.2016 in No.56001108450001302/Ins IV on the file of the 4th respondent and quash the same in respect of the petitioner school

WP.No.31895/2016: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari Calling for the records pertaining to the impugned G.O. (Ms).NO. 237 Labour and Employment (K1) dated 26.11.2010 issued by 1st respondent and the consequential proceedings dated 16.08.2016 in No. 56001113650001301/Ins.IV on the file of the 3rd respondent and and quash the same in respect of the petitioner school

For Petitioner : Dr.FR.A.Xavier Arulraj
in all WPs Senior Counsel for
M/s.A.Arul Mary

For R-1 : Mr.T.M.Pappiah,
in all WPs Special Govt. Pleader

For R-2 to R-5 : Mr.K.Prabakaran
in WP.Nos.31891 to
31894/16 for
R2 & R3 in WP.31895/16

COMMON ORDER

By consent, these writ petitions are taken up for final disposal at the admission stage itself.

2. Heard Dr.FR.A.Xavier Arulraj, learned counsel for the petitioners and Mr.K.Prabakaran, learned counsel accepting notice on behalf of the respondents.

3. The petitioners are Minority Educational Institution and the challenge in these writ petitions are to the Government order passed by the 1st respondent in G.O [Ms] No.237, Labour and Employment Department dated 26.11.2010 and the consequential order of the 3rd respondent dated 01.06.2011.

4. The matter relates to the extension of Employees State Insurance Scheme to the private educational institutions. In fact, in a batch of cases, various other Institutions have also challenged the very same Government Order and the consequential proceedings of the ESI Corporation. The said writ petitions and writ appeals were clubbed together and posted before the Hon'ble First Bench of this Court in WA.No.918/2013 etc., batch [TAMIL NADU NURSERY, PRIMARY, MATRICULATION AND HIGHER SECONDARY SCHOOL MANAGEMENT ASSOCIATION AND OTHERS Vs. THE GOVERNMENT OF TAMIL NADU AND OTHERS] and the Hon'ble First Bench of this Court by a common judgment and order dated 16.06.2015, disposed of the writ appeals and writ petitions on the following terms :-

"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."

5. Since the issue involved in these writ petitions are also identical to that of the other cases, this Court proposes to dispose of these writ petitions also on the same terms.

6. Accordingly, the writ petitions are disposed of by granting an order of interim stay of the impugned proceedings insofar as the petitioners are concerned and the said order of stay will continue till the disposal of the matters before the Honourable Supreme Court and the petitioners would be bound by the legal position enunciated by the Hon'ble Apex Court on such decision being rendered. No costs. Consequently, connected WMPs are also closed.

सत्यमेव जयते

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Principal Secretary
Government of Tamilnadu,
Labour & Employment Department
Fort St George, Chennai 600009.
 - 2.The Regional Director,
ESI - Regional Corporation [Tamil Nadu]
143, Sterling Road, Chennai 600 034.
 - 3.The Asst. Director (IPN) for Director
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1897, Trichy Road, Panchdeep Complex,
Ramanathapuram, Coimbatore - 641 045.
 - 4.The Dy.Director (INS-IV)ESI - Sub
Regional Office [Tamil Nadu]
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram, Coimbatore - 641 045.
 - 5.The Assistant Director,
ESI - Sub Regional Office [Tamil Nadu]
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045.
- +5 ccs to M/s.A.Arulmary Advocate sr52130
+1 cc to M/s.Bharadwaj Advocate sr 52302
+1 cc to Government Pleader High Court,Madras
sr 51903 to 51907
+1 cc to M/s.A.Arul Mary Advocate sr 52130 dt 25/10/2016

W.P.Nos.31891 to 31895 of 2016

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