

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.32463 of 2016
and W.M.P.Nos.28160 and 28161 of 2016

Punitha Amala Annai
Matriculation Higher Secondary School,
Represented by its Correspondent,
Vellakovil - 638 111.
Tiruppur District. ... Petitioner

Vs.

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. - Sub - Regional Office (Tamil Nadu)
Represented by its Deputy Director INS IV,
1897, Trichy Road,
Panchdeep Complex,
Ramanathapuram,
Coimbatore - 641 045. ... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India 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 31.08.2016 in No.56001149640001302/Ins IV, on the file of the 3rd respondent and quash the same in respect of the petitioner school.

For Petitioner	:	Dr.FR.A.Xavier Arulraj, Senior Counsel for Ms.A.Arul Mary
For Respondent No.1	:	Mr.T.M.Pappiah, Special Government Pleader
For Respondent Nos.2 & 3	:	Mr.K.Prabakaran,

O R D E R

Heard Dr.FR.A.Xavier Arulraj, learned counsel for the petitioner; learned Mr.T.M.Pappiah, learned Special Government Pleader accepting notice on behalf of the first respondent and Mr.K.Prabakaran, learned counsel accepting notice on behalf of the respondents 2 and 3 and with their consent, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is a Minority Educational Institution and the challenge in this writ petition is 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 31.08.2016.

3. 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 W.A.No.918 of 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."

4. Since the issue involved in this writ petition is also identical to that of the other cases, this Court proposes to dispose of this writ petition also on the same terms.

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

vsi2/sri

Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1. The Principal Secretary,
Government of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.
2. The Regional Director,
E.S.I. - Regional Corporation (Tamil Nadu)
143, Sterling Road,
Chennai - 600 034.
3. The Deputy Director I NSIV,
E.S.I. - Sub - Regional Office (Tamil Nadu),
1897, Trichy Road,
Panchdeep Complex
Ramanathapuram
Coimbatore - 641 045.

+2 CC to M/S.A,ARULMARY, Advocate SR.NO.52606
+1CC to MR.K.PRABAKAR, Advocate SR.NO.53204
+1CC to GOVT PLEADER, HIGH COURT, MADRAS SR.NO.53118

W.P.No.32463 of 2016

CA [CO]
MK:18/10/2016