

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE N.KIRUBAKARAN

WP.No.33426 of 2016

and WMP.Nos.28856 & 28857 of 2016

Arokiamatha Matriculation Higher Secondary School,
Rep by the Correspondent
Udumalai Road, M.K.Patti,
Pollachi-642 003.
Coimbatore District.

.. Petitioner

Vs

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

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

3 E.S.I - Sub-Regional Office (Tamil Nadu)
Rep by its Dy. Director (INS-IV)
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram, Coimbatore-641 045.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call 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.56001111290001302/Ins IV on the file of the 3rd respondent quash the same in respect of the petitioner school.

For Petitioner : Dr.FR.A.Xavier Arulraj SC For
M/S A.Arul Mary

For 1st Respondent : Mr.M.Elumalai, GA

For R2 and R3 : Mr.K.Prabakaran

O R D E R

The petitioner is a Minority Educational Institution registered as a society, bearing Registration S.No.36 of 1975, in the name and style of Holy Family Education Society, challenges the 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 16.08.2016 in No.56001111290001302/Ins IV.

2. Heard Dr.FR.A.Xavier Arulraj, learned counsel appearing for the petitioner; Mr.M.Elumalai, learned Government Advocate appearing for the 1st respondent and Mr.K.Prabakaran, learned counsel appearing for the respondents 2 and 3.

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 WA.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 Hon'ble

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.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

- 1 The Principal Secretary,
The 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 Director (INS-IV)
E.S.I - Sub-Regional Office (Tamil Nadu)
1897, Trichy Road, Panchdeep Complex,
Ramanathapuram, Coimbatore-641 045.

+2 cc to M/S A.Arul Mary, Advocate Sr.54150

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VSN(CO)
RVR 22/10/2016

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