

7 Annai Veilankannis College of Engineering
 Rep. by Chairman
 Annai Veilankannis Edul. & Cultural Socy.
 Admn. Office 81/33 V.G.P.Salai West Saidapet
 Ch-15

Vs

- 1 The State of Tamil Nadu
 Rep. by its Principal Secretary to
 Government Labour & Employment department
 Fort St. George Chennai-9.
- 2 The Employees State Insurance
 Corporation Rep. by its Additional
 Commissioner & Regional Director of ESIC
 Tamilnadu No.143 Sterling Road
 Nungambakkam Chennai-34.
- 3 The Employees State Insurance
 Corporation Rep. by its Deputy Director of
 ESIC No.143 Sterling Road Nungambakkam
 Chennai-34.

[Respondents]

Prayer: Petition has been filed under Article 226 of the Constitution of India seeking Writ of declaration declaring the coverage of ESI to the petitioners pursuant to the Notification extending Employees State Insurance Scheme to Private educational Institutions in all the implemented area under Employees State Insurance Act by G.O.M.No.237 Labour and employment (K1) on 26th November 2010 published vide Tamilnadu Government Gazette in Part-II-Section 2 dated 29.12.2010 and Government vide Labour and Employment Department Notification No.II(2)LE/265/2008 published at page 206 of Part-II Section 2 of the Tamilnadu Government Gazette dated 4th June 2008 as "Null & Void" and hold the consequent letters of third respondent (i)dated 18.09.2012 vide No.51-P/11/12/1/ Inspn/NSR-3217 (ii)dated 01.11.2013 vide No.51-P/11/12/1/ Inspn/NSR-3217, (iii) Office C18 Adhoc dated 19.04.2016 for period 01/11 to 10/15, which notice has not been served on the Annai Veilankanni's Group of Colleges, (iv) Notice No.51-00-104124-000-1303/Ins VIII/ dated 06.05.2016; (v) orders under Section 45A of the ESI Act as amended vide No. TN/Ins.VIII/51-00-104124-000-1303/C-18 [Adh] dated 29.06.2016 computing Rs.23,30,543/- as contribution payable by Annai Veilankanni's Group of Colleges for period 06/2011 to 10/2015 and (vi) Attachment Show Cause Notice vide No.TN/RECY/CP-1/51001041240001303/CCR-75085 dated 11.08.2016 of the 3rd respondent informing and treating all the Colleges of Society as single entity and stating they are covered under Employees State Insurance Act, and

calling upon it to suddenly deposit Rs.23,30,543/- as contribution payable by Annai Veilankanni's Group of Colleges for period 06/2011 to 10/20156, under Employees State Insurance Act, as non-est in law, in so far as they relate to the petitioners institutions.

For Petitioners : Mr.K.Shakespeare
For Respondents : Ms.M.Lalitha, GA (R1)
Mr.V.Ramachandramoorthy (R2&3)

O R D E R

Heard Mr.K.Shakespeare, learned counsel for the petitioners; Ms.M.Lalitha, learned Government Advocate accepting notice for the 1st respondent and Mr.V.Ramachandramoorthy, learned Standing Counsel accepting notice on behalf of the respondents 2 and 3.

2.The petitioners are Annai Veilankanni's Group of Colleges, started by Annai Veilankanni's Educational and Charitable Society, a Society registered in the year 1988. 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, this Writ Petition is 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 Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 The Principal Secretary to Government
The State of Tamil Nadu
Labour & Employment department
Fort St. George Chennai-9.
- 2 The Additional Commissioner & Regional Director of ESIC
The Employees State Insurance
Corporation Tamilnadu No.143 Sterling Road
Nungambakkam Chennai-34.
- 3 The Deputy Director of ESIC
Employees State Insurance Corporation
No.143 Sterling Road Nungambakkam
Chennai-34.

+1cc to Mr.K.Shakespeare, Advocate, S.R.No.57641
+1cc to Mr.C.V.Ramachandramoorthy, Advocate, S.R.No.58460
+1cc to the Government Pleader, S.R.No.58179

gj(co)
pmk.12.11.2016

W. P. No.35570 of 2016

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