

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.36887 of 2016 and

WMP.Nos.31700 and 31701 of 2016

Kamadhenu College of Arts & Science [ Petitioner ]  
Rep. by its Authorised Signatory  
North of Gowri Spinning Mills A.H.Road  
Dharmapuri-636 705.

Vs

- 1 The Government of Tamil Nadu  
Rep. by its Principal Secretary  
Labour and Employment Department  
Fort St. George  
Chennai-600 009.
- 2 Employees State Insurance Corporation  
Rep. by its Assistant Director (Revenue)  
Sub Regional Office (Salem)  
39/57 Theerthamalai Vaniga Valagam  
Three Roads Salem-636 009. [Respondents]

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records of the respondents relating to the order of the 1st respondent in G.O.Ms.No.237 Labour and Employment (K1) dated 26.11.2010 and published at page 879 of Part II Section 2 of the Tamil Nadu Government Gazette No.51 dated 29.12.2010 and the orders of the 2nd respondent Letter No.63000945870001303/INS/SRO/SLM/ C18(Int)/ and No.63000945870001303/ INS/SRO/SLM/ D-18/ dated 07.10.2015 and quash the same.

For Petitioners .. Mr.Kandan Duraisami  
For 1st Respondent .. Mr.M.Elumalai, GA  
For 2<sup>nd</sup> Respondent .. Mr.C.V.Ramachandramoorthy

O R D E R

Heard Mr.Kandan Duraisami, learned counsel for the petitioner; Mr.M.Elumalai, learned Government Advocate accepting notice for the 1st respondent and MrC.V.Ramachandramoorthy, learned Counsel accepting notice on behalf of the 2nd respondent.

2.The petitioner is an Educational Institution, started in the rural area of Dharmapuri District with the prime object of educating students hailing from backward and rural areas. 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 a batch of cases in W.A.Nos.1233 of 2011 and etc. batch dated 09.06.2015 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 holding that there will be an interim order restraining the respondents from enforcing the demand 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 Supreme Court on such decision being rendered. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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

2 Employees State Insurance Corporation  
Assistant Director (Revenue)  
Sub Regional Office (Salem)  
39/57 Theerthamalai Vaniga Valagam  
Three Roads Salem-636 009.

+1cc to Mr.Murthumani Doraisami, Advocate, S.R.No.59978

+1cc to Mr.C.V. Ramachandra murthy, Advocate, S.R.No.59725

rsi (CO)

md (14/11/2016)

सत्यमेव जयते

W.P.No.36887 of 2016

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