

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.43001 of 2016

Adam's Matriculation Higher Secondary School,
Rep. By its Founder and Correspondent

Mr.Abdullah Bin Adam,
No.2, Indira Salai, Wireless Road,
Airport, Trichy - 620 007. .. Petitioner

Vs

1. The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Labour and Employment Department,
Fort St. George, Chennai - 9.

2. Employee's State Insurance Corporation,
Rep. By its Deputy Director - Revenue,
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009. ... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of certiorari to call for
the records relating to G.O.Ms.No.237, Labour and Employment
(K1) Department, dated 26.11.2010, issued by the first
respondent and quash the same.

For petitioner : Mrs.Nalini Chidambram, SC
for Ms.C.Uma

For R1 : Mr.M.Elumalai, GA
For R2 : Mr.S.P.Srinivasan

O R D E R

By way of filing this writ petition, the petitioner
seeks to quash the impugned G.O.Ms.No.237, Labour and Employment
(K1) Department, dated 26.11.2010, issued by the first
respondent / the Principal Secretary to Government, Labour and
Employment Department, Chennai, in and by which, the provision
of the Employees' State Insurance Act, 1948 (Central Act XXXIV

of 1948), has been extended to the Educational Institutions.

2. Learned Senior counsel appearing for the petitioner, by placing on record the judgment of the Hon'ble First Bench of this Court in the case of Tamil Nadu Nursery Primary Matriculation and Higher Secondary Schools Managements Association v. State of Tamil Nadu (W.A.Nos.918 of 2013 etc., dated 16.06.2015) submitted that while considering the similar issue of extending the provisions of the Employee's State Insurance Act, 1948 to the Educational Institutions, the Hon'ble First Bench of this Court, by taking note of the fact that the said question of law has been referred to the Larger Bench of the Hon'ble Supreme Court, disposed of the writ appeals and writ petitions. For better appreciation, relevant portions of the said judgment are extracted below:

"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. In view of the above, the writ petition is disposed of with a direction to the parties to remain bound by the legal position to be enunciated by the Larger Bench of the Hon'ble Apex Court on such decision being rendered. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Assistant registrar (CS VI)

TRUE COPY//

sub assistant registrar

rkm

To

1. The Principal Secretary to Government,
Labour and Employment Department,
Fort St. George, Chennai - 9.
2. Employee's State Insurance Corporation,
The Deputy Director - Revenue,
39/57, Theerthamalai Vaniga Valagam,
Three Roads, Salem - 636 009.

+1 CC to M/s. S.P. Srinivasan, Advocate SR 73381

+1 CC to M/s. C. Uma, Advocate SR 73389

+1 CC to The Govt. Pleader SR 73792

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