

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.5783/2016 & WMP.Nos.5123 & 5124/2016

St.Joseph Nursery & Nursery School
rep.by its Correspondent
Presentation Convent, No.9, Arathoon
Road, Royapuram, chennai 600 013. ... Petitioner

Vs

- 1.The Principal Secretary
Government of Tamilnadu
Labour & Employment Department
Fort St George, Chennai 600009.
- 2.The Regional Director
ESI Regional Corporation [Tamil Nadu]
143, Sterling Road, Chennai 600 034.
- 3.The Deputy Director
ESI Regional Office
143 Sterling Road, Chennai 600 034. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying 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 passed by the 1st respondent and the consequential proceedings of the 3rd respondent dated 08.07.2015 in no.TN/INS/VIII/51-00-109227-000-1301/7120151010 and quash the same in respect of the petitioner school.

For Petitioner : Dr.FR.A.Xavier Arulraj

For R1 to R3 : Mr.G.Bharadwaj

ORDER

Heard Dr.FR.A.Xavier Arulraj, learned counsel for the petitioner ; learned Mr.G.Bharadwaj, learned counsel accepting notice on behalf of the respondents 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 08.07.2015.

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.918/2013 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.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary
Government of Tamilnadu
Labour & Employment Department
Fort St George, Chennai 600009.
- 2.The Regional Director
ESI Regional Corporation [Tamil Nadu]
143, Sterling Road, Chennai 600 034.
- 3.The Deputy Director
ESI Regional Office
143 Sterling Road, Chennai 600 034.

1cc to the Government Pleader Sr.10240

सत्यमेव जयते

WP.No.5783/2016

rsi(CO)
srg(26/02/2016)

WEB COPY