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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Review Application No.118 of 2017
in WP.13182 of 2017
and
WMP.No.17620 of 2017

1. Employees State Insurance Corporation,
represented by its Regional Director,
No.178, 100 Feet Road,
Ansari Duraisami Nagar,
Puducherry - 605 004.
2. The Branch Manager,
ESI Corporation,
Kamarajar Road,
Karaikal - 609 605. ... Applicants

vs.

- 1.Rathinavel Subramaniam Educational Trust (Pondicherry)
represented by its Administrative Officer,
Kallikuppam, Thiruvettakudi,
Kottucherry Commune,
Karaikal 609 609.
- 2.The Government of Puducherry,
rep. by its Additional Secretary
Labour Department,
General Secretariat, Puducherry. ... Respondents

Review application filed under Order 47 Rule (1) of Section 114 of the Civil Procedure Code against the order dated 24.05.2017 passed by this Court in WP.No.13182 of 2017.

For Applicants : Mr.SP.Srinivasan

ORDER

This application has been filed by the Employees State Insurance Corporation, i.e., respondents 2 and 3 in WP.No.13182 of 2017, seeking to review the order dated 24.05.2017 passed in



the said writ petition, whereby, this Court, following the judgment of a Division Bench of this Court, in WA.No.1233 of 2011 etc. batch of cases, dated 09.06.2015, has granted an interim order, restraining the respondents therein from enforcing the demand of ESI coverage till the disposal of the matter pending before the Supreme Court and the petitioner therein would be bound by the legal position enunciated by the Supreme Court on such decision being rendered.

2.Heard the learned counsel for the applicants and perused the materials placed before this Court.

3.It emerges from the records that the second respondent herein viz., the Government of Puducherry issued a notification dated 24.06.2005 covering the educational institutions including public, private, aided or partially aided run by individuals, trustees, societies or other organisations, wherein 20 or more persons are employed or were employed for wages on any day of the preceding twelve months, under the Employees' State Insurance Act, 1948. Challenging the said notification, the first respondent/writ petitioner has filed the aforesaid writ petition, which, by order dated 24.05.2017, was disposed of, granting the aforesaid interim order, in the light of the Division Bench judgment dated 09.06.2015 passed in WA.No.1233 of 2011 etc. batch of cases. Pointing out that an order had crept in the aforesaid judgment of the Division Bench of this Court, the applicants /ESI Corporation have come up with this application to review the order passed by this Court in the writ petition.

4.Learned counsel for the applicants submitted that similar notification issued by the Kerala Government was challenged by the Educational institutions by way of writ petitions, which were ultimately, dismissed by the Supreme Court in SLP.No.28285 of 2009, affirming ESI coverage on Educational Institutions. Hence, this review application came to be filed.

5.However, this Court is of the opinion that the applicants, instead of filing appropriate application before the Division Bench, which passed the judgment in WA.No.1233 of 2011 etc. batch of cases, have filed this application to review the order passed in the writ petition in line with the Division Bench judgment as referred to above. Such prayer cannot be entertained, as the scope of review is very narrow and the review of the order is not permissible for a fresh decision. Further, the review Court cannot sit in appeal over its own order and the rehearing of the matter is impermissible in law, as held by the Supreme Court in Inderchand Jain (Dead) through his legal heirs v. Motilal (Dead) through his legal heirs [(2009) 14 SCC 663].



6. In such view of the matter, the applicants are disentitled to get any relief in this application. Accordingly, this review application stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Secretary,
Government of Puducherry,
Labour Department,
General Secretariat, Puducherry.
2. The Regional Director,
Employees State Insurance Corporation,
178, 100 feet Road,
Ansari Duraisami Nagar,
Puducherry
3. The Branch Manager,
ESI Corporation,
Kamarajar Road,
Karaikal-609 605.

+2ccs to Mr.SP.Srinivasan, Advocate, S.R.No.4421

Review Application No.118 of 2017

SSD(CO)
CS/28/02/18